

Notice of Allowability

Application No.

10/039,872

Examiner

Aaron Roane

Applicant(s)

WOODARD ET AL.

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6/24/2004.
2. ☒ The allowed claim(s) is/are 18-22.
3. ☒ The drawings filed on 03 January 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 200408021.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Albert C. Smith (Reg. No. 20,355) on 8/2/2004.

The application has been amended as follows:

- In the specification, page 21, paragraph 75, line 5, change "deflects intermediate portion 218 of catheter" to -- deflects an intermediate portion of catheter--.
- In the specification, page 21, paragraph 75, line 9, delete "218".

Claims 1-17 are cancelled.

New claims 18-22 are added as follows:

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18 (New) A method of ablating biological tissue with an ablation apparatus including an elongated member having a flexible distal portion supporting an ablation element to emit ablative energy, the method comprising the steps for;

advancing the distal portion into a patient's body toward a target tissue site;

deflecting the elongated member proximal the distal portion in order to deflect the distal portion in response to contact with tissue at the target tissue site;

additionally deflecting the elongated member to move the distal portion in flexible contact with the tissue along an extended path at the target tissue site; and

applying ablative energy to the ablation element during the additional deflecting to ablate tissue along the extended path.

19 (New) The method according to claim 18 wherein the deflecting of the elongated member is in one rotational direction and the flexing of the distal portion is in an opposite rotational direction.

20 (New) The method according to claim 19 wherein the one and the opposite rotational directions are substantially within a common plane.

21 (New) The method according to claim 20 in which the ablation element emits ablative energy substantially aligned with the common plane toward tissue contacted by the flexible distal portion.

22 (New) The method according to claim 18 wherein additional deflecting occurs substantially simultaneously with applying ablative energy for forming a substantially continuous extended path of ablated tissue.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

The prior art does not disclose, imply, suggest and/or teach or provide a properly motivated combination thereof disclosing a method of ablating tissue in an extend path longer than the normal ablative pattern of the ablative element by moving the ablative portion of the device by actuating the deflecting means and deflecting the distal end portion in response to contact with the target tissue.

It should be noted that these claims are closely related to the claims of Application 10/039,873. However, the claims differ in that the present method calls for the deflection of the distal portion in response to contact with the target tissue while the method of Application 10/039,873 calls for the deflection of the distal portion by deliberate operator deflection of the distal portion.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron Roane whose telephone number is (703) 305-7377. The examiner can normally be reached on 9am - 5pm, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (703) 308-0994. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A.R. A.R.
August 9, 2004


MICHAEL PEFFLEY
PRIMARY EXAMINER